

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Texas

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Process for the Investigation of Allegations of Resident Neglect
and Abuse and Misappropriation of Resident Property

The State has in effect the following process for the receipt and timely review and investigation of allegations of neglect and abuse and misappropriation of resident property by a nurse aide or a resident in a nursing facility or by another individual used by the facility in providing services to such a resident.

The Texas Department of Health (the Survey and Certification Agency) is responsible for the investigation of allegations of resident abuse and neglect and misappropriation of resident property in nursing facilities. The state licensing law (Health and Safety Code) Chapter 242 and 247 specifically addresses: (1) the reporting of complaint allegations (2) the receipt and processing of investigations, (3) the referral to appropriate state and local policy authorities, and (4) other administrative functions.

Any individual (general public, facility staff, surveyors, etc.) is required to report any allegation of resident abuse or neglect and misappropriation of resident property. Facilities participating in Medicare and/or Medicaid are also mandated by federal and state Medicare/Medicaid requirements to report such allegations. The Texas Department of Health (TDH) provides a toll-free telephone hot-line for use by the public in reporting allegations. Written allegations are also accepted. There is a centralized intake process in Austin where each complaint/incident is given a code number and a priority for investigation. Reporting of complaints/incidents is possible 24 hours a day, seven days a week either directly to intake staff or through a telephone recorder. All collected data, the code number and priority are entered into an automated system. An investigation is begun within 24 hours of receipt, for complaints/incidents that are considered serious or an immediate threat to resident health and safety. Other complaints/incidents, depending on their nature, are investigated within 14 days to 60 days of receipt.

A complaint/incident is assigned for investigation to the Public Health Regional Long Term Care Unit (LTCU) in which the facility is located. Investigations are performed by staff who are trained in all pertinent state and federal laws, and requirements for licensure and Medicare/Medicaid certification. Investigators also receive specialized training in investigation and documentation techniques. Following a thorough LTCU investigation, a complete report of the findings along with a recommendation(s) for corrective action is written and sent to the Austin Central Office. The recommendation(s) for corrective action may range from a deficiency with a plan of correction to proposed termination of the Medicare/Medicaid contract.

Reports are reviewed for consistency and quality. Based on the final recommendation, referral(s) are made to the appropriate local/state enforcement agency and pertinent state licensure/certification board(s). If the facility is licensed-only, the Texas Department of Health initiates the licensing action necessary to correct the situation. In these cases, the department works closely with the Attorney General's Office and/or local district attorneys. On-site follow-up visits are conducted as needed.

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